



4-16-1953

Letter from Representative Burdick to William Davidson Regarding Land Seizure Precedent, April 16, 1953

Usher Burdick

[How does access to this work benefit you? Let us know!](#)

Follow this and additional works at: <https://commons.und.edu/burdick-papers>

Recommended Citation

Burdick, Usher, "Letter from Representative Burdick to William Davidson Regarding Land Seizure Precedent, April 16, 1953" (1953). *Usher Burdick Papers*. 373.
<https://commons.und.edu/burdick-papers/373>

This Book is brought to you for free and open access by the Elwyn B. Robinson Department of Special Collections at UND Scholarly Commons. It has been accepted for inclusion in Usher Burdick Papers by an authorized administrator of UND Scholarly Commons. For more information, please contact und.common@library.und.edu.

OFFICIAL

USHER L. BURDICK, M. C.

STRAIGHT WIRE
APRIL 16, 1953

MR. WILLIAM S. DAVIDSON, SR.
PRESIDENT
AMERICAN STATE BANK
WELLISTON, NORTH DAKOTA

FURTHER REFERENCE TO GARRISON DAM QUOTE THE FOLLOWING:

U.S. 216, 178 — "No citizen can be deprived of his property through such a mental impression of the Secretary, merely because he has good reason to believe it was an obstruction. To have good reason to believe does not involve a definitive conclusion that he does believe the bridge is unreasonable, for there may be better good reasons to show it is not.

"All trials in courts of justice where the private property of a citizen is involved must be in accordance with due process of law. This the Fifth Amendment requires. Even if due process of law does not always require judicial proceedings, still when Congress expressly confers jurisdiction the courts will proceed to perform their duty in accordance with their own settled rules and maxims. They will always administer justice by due process of law."

111 U.S. 708 — "It is sufficient to observe here, that by "due process" is meant one which, following the forms of law, is appropriate to the case, and just to the parties to be affected. It must be pursued in the ordinary mode prescribed by the law; it must be adapted to the end to be attained; ... Hurtado v. California, 110 U.S. 516, 536.

"As stated by Mr. Justice Bradley, in his concurring opinion in Davidson v. New Orleans: "In judging what is 'due process of law' respect must be had to the cause and object of the taxing, whether under the taxing power, the power of eminent domain, or the power of assessment for local improvements, or some of these; and if found to be suitable or admissible in the special case, it will be adjudged to be 'due process of law,' but if found to be arbitrary, oppressive, and unjust, it may be declared to be not 'due process of law.'"

OFFICIAL

USHER L. BURDICK, M. C.

MR. W. S. DAVIDSON, SR.
PAGE 2STRAIGHT WIRE
APRIL 16, 1953167 U.S. 418 -- "In Galpin v. Page, 18 Wall. 350, the court said (p. 368):

"It is a rule as old as the law, and never more to be respected than now, that no one shall be personally bound until he has had his day in court, by which is meant, until he has been duly cited to appear, AND HAS BEEN AFFORDED AN OPPORTUNITY TO BE HEARD. Judgment without such citation and opportunity wants all the attributes of a judicial determination; it is judicial usurpation and oppression, and can never be upheld where justice is justly administered."

"Again, in Ex parte Wall, 107 U. S. 265, 289, the court quoted with approval the observations as to "due process of law" made by Judge Cooley, in his Constitutional Limitations, at page 353, where he says:

"Perhaps no definition is more often quoted than that given by Mr. Webster in the Dartmouth College case: 'By the law of the land is most clearly intended the general law; a law which hears before it condemns, which proceeds upon inquiry and renders judgment only after trial. The meaning is that every citizen shall hold his life, liberty, property and immunities under the protection of the general rules which govern society.'"

U.S. 211, 101, 102 -- "But, consistently with the requirements of due process, no change in ancient procedure can be made which disregards those fundamental principles, to be ascertained from time to time by judicial action, which have relation to process of law and protect the citizen in his private right, and guard him against the arbitrary action of government. This idea has been many times expressed in differing words by this court, and it seems well to cite some expressions of it. The words due process of law "were intended to secure the individual from the arbitrary exercise of the powers of government, unrestrained by the established principles of private rights and distributive justice." Bank of Columbia v. Okely, 4 Wh. 235, 244 (approved in Hurtado v. California, 110 U. S. 516, 527; Leeper v. Texas, 139 U. S. 462, 468; Scott v. McNeal, 154 U. S. 34, 35). "This court has never attempted to define with precision the words 'due process of law.' . . . It is sufficient to say that there are certain immutable principles of justice which inhere in the very idea of free government which no member of the Union may disregard." Holden v. Hardy, 169 U. S. 366, 389.

USHER L. BURDICK, M. C.